

## Broadcasting Board of Governors

## § 512.20

Code, including the U.S. Postal Service and the U.S. Postal Rate Commission;

(b) A military department as defined in section 102 of title 5, United States Code;

(c) An agency or court in the judicial branch, including a court as defined in section 610 of title 28, United States Code, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multidistrict Litigation;

(d) An agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and

(e) Other independent establishments that are entities of the Federal Government.

*FCCS* means the Federal Claims Collection Standards jointly published by the Justice Department and the General Accounting Office at 4 CFR parts 101-105.

*Paying agency* means the agency employing the individual and authorizing the payment of his or her current pay.

*Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deductions at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

*Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt allegedly owed by an employee to an agency as permitted or required by U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 710, 5 U.S.C. 8346(b), or any other law.

[52 FR 43897, Nov. 17, 1987, as amended at 55 FR 3051, Jan. 30, 1990]

### § 512.20 Notification.

(a) Salary offset deductions shall not be made unless the Director, Financial Operations Division of Broadcasting Board of Governors, or such other official as may be named in the future by the Director of Broadcasting Board of Governors, provides to the employee a written notice, 30 calendar days prior to any deduction, stating at a minimum:

(1) The Board's determination that a debt is owed including the nature, origin, and amount of the debt;

(2) The Board's intent to collect the debt by means of deduction from the employee's current disposable pay account;

(3) The amount, frequency and proposed beginning date and duration of the intended deductions;

(4) An explanation of the Board's policy concerning interest, penalties, and administrative costs;

(5) The employee's right to inspect and copy Government records pertaining to the debt;

(6) The opportunity to establish a schedule for the voluntary repayment of the debt or to enter into a written agreement to establish a schedule for repayment in lieu of offset per the requirements of 4 CFR 102.2(e).

(7) The employee's right to a hearing arranged by the Board and conducted by an administrative law judge or, alternatively, an official not under the control of the head of the Board;

(8) The method and time period for filing a petition for a hearing;

(9) That timely filing of the petition will stay the commencement of collection proceedings;

(10) That final decision on the hearing will be issued not later than 60 days after the filing of the petition for hearing unless the employee requests and the hearing officer grants a delay in the proceedings.

(11) That knowingly false, misleading, or frivolous statements, representations or evidence may subject the employee to:

(i) Disciplinary procedures under chapter 75 of title 5, United States Code or any other applicable statutes;

(ii) Penalties under the False Claims Act, sections 3729-3731 of title 31 U.S.C. or any other applicable statutes.

(iii) Criminal penalties under sections 286, 287, 1001, 1002 of title 18 United States Code or any other applicable statutes.

(12) Any other rights or remedies available to the employee, including representation by counsel or his respective bargaining unit, under the statutes or regulations governing the program for which collection is being made.

(13) That amounts paid on or deducted for the debts that are later waived or found not owed to the United States will be promptly refunded to the employee.

(b) Notifications under this section shall be hand delivered with a record

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made of the delivery, or shall be mailed certified mail with return receipt requested.

(c) No notification hearing, written responses or final decisions under this regulation are required of Broadcasting Board of Governors for any adjustment to pay arising from an employee's election of coverage under a Federal benefit program requiring periodic deductions from pay, if the amount to be recovered was accumulated over four pay periods or less.

### **§512.21 Hearing.**

(a) *Petition for hearing.* (1) A hearing may be requested by filing a written petition with the Director, Financial Operations Division of Broadcasting Board of Governors, or such other official as may be named in the future by the Director of Broadcasting Board of Governors, stating why the employee believes the Board's determination of the existence or amount of the debt is in error.

(2) The petition must be signed by the employee and fully identify and explain with reasonable specificity all the facts, evidence and witnesses which the employee believes support his or her position.

(3) The petition must be filed no later than fifteen (15) calendar days from the date the notification under §512.20(b) was hand delivered or the date of delivery by certified mail.

(4) Where petition is received after the 15 calendar day limit, Broadcasting Board of Governors will accept the petition if the employee can show that the delay was beyond his or her control or because of failure to receive notice.

(5) If the petition is not filed within the time limit, and is not accepted pursuant to paragraph (a)(4) of this section, the employee's right to hearing will be considered waived, and salary offset will be implemented.

(b) *Type of hearing.* (1) The form and content of the hearing will be determined by the hearing official who shall be a person outside the control or authority of Broadcasting Board of Governors.

(2) The employee may represent him or herself, or may be represented by counsel.

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(3) The hearing official shall maintain a summary record of the hearing.

(4) The hearing official will prepare a written decision which will state:

(i) The facts purported to evidence nature and origin of the alleged debt;

(ii) The hearing official's analysis, findings, and conclusions relative to:

(A) The employee's and/or the Board's grounds;

(B) The amount and the validity of the alleged debt;

(C) The repayment schedule, if applicable.

(5) The decision of the hearing official shall constitute the final administrative decision of the Board.

### **§512.22 Deduction from pay.**

(a) Deduction by salary offset, from an employee's disposable current pay, shall be subject to the following circumstances:

(1) When funds are available, the Board will collect debts owed the United States in full in one lump-sum. If funds are not available or the debt exceeds 15% of disposable pay for an officially established pay interval, collection will normally be made in installments.

(2) The installments shall not exceed 15% of the disposable pay from which the deduction is made, unless the employee has agreed in writing to a larger amount.

(3) Deduction will commence with the next full pay interval following notice that deductions will commence.

(4) Installment deductions will not be made over a period greater than the anticipated period of employment.

[52 FR 43897, Nov. 17, 1987, as amended at 55 FR 3051, Jan. 30, 1990]

### **§512.23 Liquidation from final check or recovery from other payment.**

(a) If an employee retires or resigns before collection of the debt is completed, offset of the entire remaining balance may be made from a final payment of any nature to such extent as is necessary to liquidate the debt.

(b) Where debt cannot be liquidated by offset from final payment, offset may be made from later payments of any kind due from the United States inclusive of Civil Service Retirement and Disability Fund pursuant to 5